

U/m

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FRANCIS CROWLEY,

Petitioner,

X

MEMORANDUM AND ORDER

CV 04-4342

-against-

(Wexler, J.)

UNITED STATES OF AMERICA,
Respondent.

X

APPEARANCES:

FRANCIS CROWLEY
PETITIONER # 56090-053NC
P.O. Box 7000
Fort Dix, New Jersey 08640

ROSLYNN R. MAUSKOPF, UNITED STATES ATTORNEY,
EASTERN DISTRICT OF NEW YORK
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Attorneys for Respondent
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Brooklyn, New York 11201

WEXLER, District Judge

In a memorandum and order dated September 13, 2005, this court denied the petition of Francis Crowley (“Crowley”) for an order pursuant to 28 U.S.C. § 2255, vacating a sentence of imprisonment imposed by this court in June of 2002. The court thereafter denied Petitioner’s motion to amend or alter that judgment. Presently before the court is Petitioner’s motion requesting that this court issue a Certificate of Appealability (“COA”).

The Anti-Terrorism and Effective Death Penalty Act provides that a COA be issued “only if the applicant has made a substantial showing of the denial of a

constitutional right.” 28 U.S.C. § 2253(c). While a petitioner does not have show he should prevail on the merits, he must “demonstrate that the issues are debatable among jurists of reason; that a court could resolve the issues [in a different manner]; or that the questions are adequate to deserve encouragement to proceed further.” Reyes v.Keane, 90 F.3d 676, 680 (2d Cir.1996), quoting, Barefoot v. Estelle, 463 U.S. 880, 893 n. 4 (1983); see also Maldanado v. United States, 960 F. Supp.2d 23, 28 (E.D.N.Y. 1997).

Upon review and consideration of the motion in accord with the standards set forth above, the court holds that the certificate requested should not be issued and the motion is hereby denied.

SO ORDERED


LEONARD D. WEXLER
UNITED STATES DISTRICT JUDGE

Dated: Central Islip, New York
June 6, 2006